

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROYCE A. PEARSON,

Plaintiff, No. CIV S-05-0490 LKK CMK P

vs.

C.E. FINN, et al.,

Defendants. FINDINGS & RECOMMENDATIONS

Plaintiff, a state prisoner, is proceeding pro se and in forma pauperis brings this action pursuant to 42 U.S.C. § 1983. This matter was referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72-302(c)(17).

By order filed March 1, 2006, the court issued an order dismissing the operative complaint for failure to state a claim and directed plaintiff to file an amended complaint within thirty days. Plaintiff has not filed an amended complaint.

In the March 1, 2006 order, the court informed plaintiff of the deficiencies in his complaint and dismissed the complaint on the ground that plaintiff had failed to state a claim upon which relief could be granted. Because plaintiff has not filed an amended complaint, the court recommends dismissal of the claims made in the original complaint for failure to state a claim upon which the court could grant relief. See Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir.

1 1987) (prisoner must be given notice of deficiencies and opportunity to amend prior to dismissing  
2 for failure to state a claim).

3                   Based on the foregoing, IT IS RECOMMENDED that this action be dismissed for  
4 failure to state a claim upon which relief can be granted

5                   These findings and recommendations are submitted to the United States District  
6 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty  
7 days after being served with these findings and recommendations, plaintiff may file written  
8 objections with the court. The document should be captioned "Objections to Magistrate Judge's  
9 Findings and Recommendations." Plaintiff is advised that failure to file objections within the  
10 specified time may waive the right to appeal the District Court's order. See Martinez v. Ylst, 951  
11 F.2d 1153 (9th Cir. 1991).

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13 DATED: May 25, 2006.

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16 CRAIG M. KELLISON  
UNITED STATES MAGISTRATE JUDGE

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